

REMARKS

Claims 1-35 are pending in the application. Favorable reconsideration and allowance of the present application is respectfully requested in view of the reasons which follow.

In a response to the First Office Action (dated July 17, 2002) that was mailed October 16, 2002, a Proposed Changes to the Drawings was filed in which amendments were proposed to Figures 1-6. In the Final Office Action dated December 18, 2002, the Non-Final Office Action dated June 6, 2003, and the Final Office Action dated December 3, 2003, the Examiner did not indicate whether the proposed changes to the drawings were accepted. Approval of the proposed drawing changes is hereby respectfully requested.

1. Claim Rejections – 35 U.S.C. §102(e)

Claims 1, 5, 9, 10, 14, 20, 21, 23, 29, 30 and 32 were rejected under 35 U.S.C. §102(e) as being anticipated by Evans (U.S. 5,924,074). Applicants respectfully traverse the rejection.

a. Allowability of Independent Claims 1 and 32 and Dependent Claims 5, 9 and 10

Independent claim 1 requires, among other limitations, a first application configured to display patient images for a patient, to generate a patient context for the patient and to provide the patient context to a second application configured to display patient data based on the patient context.

Independent claim 32 requires, among other limitations, a first application configured to retrieve and display patient images for a patient and to generate patient context data associated with the patient and a second application in data communication with the first application and configured to receive the patient context data from the first application and to retrieve patient textual data for the patient on the display based on the patient context data.

As discussed in the specification, in exemplary embodiments, patient context information is shared between a first application and a second application operating on a

single workstation. See, Specification, page 2, lines 4-5, page 4, lines 8-13 and page 7, lines 4-8. The first application may be configured to display patient images. See Specification, page 8, lines 5-8. The second application is configured to display patient data on the display unit based on the patient context provided by the first application. See, Specification, page 8, lines 5-12. Accordingly, the patient data information system allows multiple applications residing on the same workstation to exchange patient context data. See, Specification, page 7, lines 4-8 and lines 19-22.

In contrast, Evans does not teach does not teach, suggest or disclose a first application configured to display patient images, to generate a patient context and to provide the patient context to a second application configured to retrieve and display patient data, such as patient textual data, based on the patient context. Rather, Evans teaches an electronic medical record (EMR) system that may be used to create and maintain all patient data electronically and to provide an “intuitive, easy-to-use, icon-based interface” to capture and analyze patient data. See, Evans, col. 2, lines 21-31. The EMR system includes a point of care system 100 and a patient data repository 102 as well as graphical user interfaces to access system functions. See, Evans, Figure 1, col. 4, line 64 to col. 5, line 1 and col. 5, lines 56-57. Point of care system 100 of the EMR system includes a graphical user interface that has multiple windows such as a patient chart window 150 (configured to present a patient record graphically using a tabbed layout), a folder window 155, a new form window 161, an annotate window 170 and a viewer window 185. See, Evans, Figure 5-8, col. 6, line 37 to col. 7, line 40. By selecting (e.g., pointing and clicking) tabs, buttons, items, etc. in the patient chart window 150, 180 a user may access further windows to enter, annotate or view data from the patient record. See, Evans, Figures 5-8, col. 6, line 44 to col. 7, line 40.

In the Final Office Action, the Examiner stated: “Evans discloses . . . a first application (figure 8, (180), column 7, lines 27-40) configured to display patient images (figure 8, (182) for a patient on the display unit (figure 8, (185)) and generated a patient context for the patient using the first application; a second application (figure 8, (185) wherein the first application is configured to provide the patient context to the second application. . .” and “. . . [i]n Figure 8, user selects one of the list of patient data of the first

window (application) 180, patient data is retrieved and displayed on the second window (application) 185.” See, Final Office Action, pages 2-3 and page 7.

The portion of Evans cited by the Examiner discloses:

“Lastly, as shown in FIG. 8, a healthcare provider uses the patient chart window 180 to view patient data. First, the healthcare provider selects a view item 182 by either pointing and clicking twice on the item in a list displayed in the folder window 184 or by pointing at the item in the list and pressing the view button 183. The double click opens a viewer window 185 to display the view item 182. For example, the viewer window 185 of FIG. 8 displays an x-ray 186. As before, the healthcare provider may annotate the x-ray 186 with comments and observations by clicking on the annotate button 187. The healthcare provider may likewise close the viewer window 185 by clicking on the close button 189. See, Evans, Figure 8, col. 7, lines 28-40.

Even assuming, *arguendo*, that the patient chart window 180 and the viewer window 185 are a first and second application as asserted by the examiner, Evans does not teach that the patient chart window 180 displays patient images. Rather, as shown in Figure 8, patient chart window 180 displays a textual list of patient data such as view item 182, e.g. an identifier for an x-ray of the patient, in a folder window 184. A patient image 186 is displayed in the viewer window 185, which the examiner has asserted is the second application. Claims 1 and 32 require that the first application both displays patient images and generates a patient context, therefore, viewer window 185 also does not correspond to the first application.

In addition, there is no teaching that a patient context is created by the patient chart window 180 and provided to the viewer window 185. Evans teaches that the point of care system 100 issues a request for patient data from a patient record to a patient data repository 102. See, Evans, Figure 15A, col. 9, lines 38-40. A data manager 202 locates the patient record using a patient identifier and delivers the requested data to the point of care system 100. See, Evans, Figure 15 A, col. 9, lines 48-53. Accordingly any patient identification information would be provided to the patient data repository 102 and not to the viewer window 185. Evans discloses that a user may double click on the view item 182 in a list

displayed in the folder window 184 of the patient chart window 180 to open the viewer window 185 to display the view item 182. See, Evans, Figure 8, col. 7, lines 28-40. There is, however, no teaching or suggestion that patient context is provided from the patient chart window 180 to the viewer window 185. Accordingly, claims 1 and 32 are allowable over Evans.

yes
click (select) to display 185

Claims 5 and 9-10 depend from claim 1 and incorporate all of the limitations of claim 1 and are therefore allowable over Evans for, among other reasons, the same reasons as given above with respect to claim 1. Regarding claim 5, assuming *arguendo* that the viewer window 185 corresponds to a second application as recited in claim 1, Evans does not teach or disclose that the viewer window 185 may be one of a case signout application, a report entry application, an order detailing application, and an order viewer application. The portion of Evans cited by the Examiner as teaching this limitation discloses the operation of a data interface 204 of the patient data repository 102 when an external source requests data from a patient record stored in the patient data repository 102. See, Evans, Figure 17b, col. 10 line 59 to col. 11, line 9. For example, the patient data repository 102 may transmit a prescription from a patient record to a hospital or pharmacy. See, Evans, Figure 17b, col. 11, lines 1-3.

Accordingly, claims 1, 5, 9, 10 and 32 are believed to be allowable. Withdrawal of the rejection under 35 U.S.C. § 102(e) and allowance of claims 1, 5, 9, 10, and 32 is respectfully requested.

b. Allowability of Independent Claims 14 and 23 and Dependent Claims 20, 21, 29 and 30

Independent claim 14 requires, among other limitations, generating a patient context for a patient using a first application, providing the patient context from the first application to the second application on the workstation, receiving a second set of patient data based on the patient context and displaying the second set of patient data using the second application on the workstation.

Independent claim 23 requires, among other limitations, a means for generating a patient context for a patient using a first application, a means for providing the patient context

from the first application to the second application on the workstation, a means for receiving a second set of patient data based on the patient context and a means for displaying the second set of patient data using the second application on the workstation.

As discussed above with respect to claims 1 and 32, even assuming *arguendo* that the patient chart window 180 and the viewer window 185 of taught by Evans are a first and second application as asserted by the examiner, there is no teaching that a patient context is created by the patient chart window 180 and provided to the viewer window 185. Evans teaches that the point of care system 100 issues a request for patient data to a patient data repository 102. See, Evans, Figure 15a, col. 9, lines 38-30. A data manager 202 locates the patient record using a patient identifier and delivers the requested data to the point of care system 100. See, Evans, Figure 15a, col. 9, lines 48-53. Accordingly any patient identification information would be provided to the patient data repository 102 and not to the viewer window 185. Evans discloses that a user may double click on the view item 182 in a list displayed in the folder window 184 of the patient chart window 180 to open the viewer window 185 to display the view item 182. See, Evans, Figure 8, col. 7, lines 28-40. There is, however, no teaching or suggestion that patient context is provided from the patient chart window 180 to the viewer window 185. Accordingly, claims 14 and 23 are allowable over Evans.

Claims 20-21 depend from claim 14 and incorporate all of the limitations of claim 14 and are therefore allowable over Evans for, among other reasons, the same reasons as given above with respect to claim 14. Claims 29 and 30 depend from claim 23 and incorporate all of the limitations of claim 23 and are therefore allowable over Evans for, among other reasons, the same reasons as given above with respect to claim 23.

Accordingly, claims 14, 20, 21, 23, 29 and 30 are believed to be allowable. Withdrawal of the rejection under 35 U.S.C. § 102(e) and allowance of claims 14, 20, 21, 23, 29 and 30 is respectfully requested

2. Claim Rejections 35 U.S.C. §103(a)

Claims 2, 18-19, 27-28 and 33 were rejected under 35 U.S.C. §103(a) as being unpatentable over Evans in view of Rock et al. ("Rock," U.S. 6,032,120). Claims 3, 6-8, 11-13, 15-17, 22, 24-26, 31, 34 and 35 were rejected under 35 U.S.C. §103(a) as being unpatentable over Evans in view of Rock and further in view of Wong et al. ("Wong," U.S. 6,260,021). Claim 4 was rejected under 35 U.S.C. §103(a) as being unpatentable over Evans.

a. Allowability of Claims 2, 18-19, 27-28 and 33

Claim 2 depends from claim 1 and incorporates all of the limitations of claim 1 and is therefore allowable over Evans in view of Rock for, among other reasons, the same reasons as given above with respect to claim 1. Claims 18-19 depend from claim 14 and incorporate all of the limitations of claim 14 and are therefore allowable over Evans in view of Rock for, among other reasons, the same reasons as given above with respect to claim 14. Claims 27-28 depend from claim 23 and incorporate all of the limitations of claim 23 and are therefore allowable over Evans in view of Rock for, among other reasons, the same reasons as given above with respect to claim 23. Claim 33 depends from claim 32 and incorporates all of the limitations of claim 32 and is therefore allowable over Evans in view of Rock for, among other reasons, the same reasons as given above with respect to claim 32.

Accordingly, claims 2, 18-19, 27-28 and 33 are believed to be allowable. Withdrawal of the rejection under 35 U.S.C. § 103(a) and allowance of claims 2, 18-19, 27-28 and 33 is respectfully requested.

b. Allowability of Claims 3, 6-8, 11-13, 15-17, 22, 24-26, 31, 34 and 35

Claims 3, 6-8 and 11-13 depend from claim 1 and incorporate all of the limitations of claim 1 and are therefore, allowable over Evans in view of Rock and further in view of Wong for, among other reasons, the same reasons as given above with respect to claim 1. Claims 15-17 and 22 depend from claim 14 and incorporate all of the limitations of amended claim 14 and are therefore allowable over Evans in view of Rock and further in view of Wong for, among other reasons, the same reasons as given above with respect to claim 14. Claims 24-

26 and 31 depend from claim 23 and incorporate all of the limitations of claim 23 and are therefore allowable over Evans in view of Rock and further in view of Wong for, among other reasons, the same reasons as given above with respect to claim 23. Claims 35 and 35 depend from claim 32 and incorporate all of the limitations of claim 32 and are therefore, allowable over Evans in View of Rock and further in view of Wong for, among other reasons, the same reasons as given above with respect to claim 32.

Accordingly, claims 3, 6-8, 11-13, 15-17, 22, 24-26, 31, 34 and 35 are believed to be allowable. Withdrawal of the rejection under 35 U.S.C. § 103(a) and allowance of claims 3, 6-8, 11-13, 15-17, 22, 24-26, 31, 34 and 35 is respectfully requested.

c. Allowability of Claim 4

Claim 4 depends from claim 1 and incorporates all of the limitations of claim 1 and is therefore allowable over Evans for, among other reasons, the same reasons as given above with respect to claim 1.

Accordingly, claim 4 is believed to be allowable. Withdrawal of the rejection under 35 U.S.C. § 103(a) and allowance of claim 4 is respectfully requested.

3. Conclusion

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-2401. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-2401. If any extensions of time are needed for timely acceptance of

papers submitted herewith, applicant hereby petitions for such extension under 37 C.F.R.
§1.136 and authorizes payment of any such extensions fees to Deposit Account No. 50-2401.

Respectfully submitted,

Date 3/3/04

By Jean M. Tibbetts

FOLEY & LARDNER LLP
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-5306
Telephone: (414) 297-5531
Facsimile: (414) 297-4900

Jean M. Tibbetts
Attorney for Applicant
Registration No. 43,193